

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

File No.

City of Long Lake,

CASE TYPE:

Plaintiff,

v.

**DECLARATION OF MAYOR
CHARLIE MINER**

City of Orono,

Defendant.

I, Charlie Miner, declare as follows:

1. I am the Mayor of the City of Long Lake. I have personal knowledge of the facts contained herein and am competent to testify to them.

2. The City of Long Lake is a community of approximately 1,800 people located in the western suburbs of Minneapolis, in Hennepin County, Minnesota.

3. Long Lake has operated a fire department since 1915, which has served the residents of Long Lake and other communities for over 100 years.

4. The City of Orono borders Long Lake and has benefited from Long Lake's fire protection services for decades.

5. For years, the Long Lake Fire Department was located at 1944 Park Avenue, in Long Lake, Minnesota. The land and building were owned by Long Lake.

6. In 2001, the Minnesota Department of Transportation condemned the land upon which the Long Lake Fire Station was situated in order to build a new highway. At that time, Long Lake was providing fire protection services to Orono and Medina.

7. The Minnesota Department of Transportation agreed to pay Long Lake, Orono, and Medina approximately \$3,498,200.00 for the costs of a new fire station, including construction costs and other expenses related to the construction of a new fire station, such as the cost of land, site improvements, legal fees, consultant fees, etc.

8. Replacement land was located for the Long Lake Fire Station at 340 Willow Drive, Orono, Minnesota (“Fire Station 1”). Nevertheless, utilities to the new fire station such as the water and sewer systems remained coming from Long Lake.

9. In August 2001, Long Lake and Orono entered into a Contract for Joint Ownership in connection with Fire Station 1. Long Lake and Orono currently each own 50 percent of Fire Station 1. A true and accurate copy of the Contract for Joint Ownership is attached hereto as **Exhibit A**.

10. In October 2002, Long Lake, Orono, and Medina entered into an Agreement and Contract for Fire Protection in connection with Fire Station 1. A true and accurate copy of the Contract for Fire Protection is attached hereto as **Exhibit B**.

11. The Contract for Fire Protection extends until December 31, 2025.

12. The LLFD currently maintains two fire stations in the fire service area. The second fire station is located at 3770 Shoreline Drive, Orono, Minnesota (“Fire Station 2”). Orono owns 100 percent of Fire Station 2.

13. In December 2011, Orono and Long Lake entered into an Addendum to the Contract for Fire Protection in connection with Fire Station 2. A true and accurate copy of the Addendum to Contract for Fire Protection is attached hereto as **Exhibit C**.

14. The LLFD consists of approximately forty-two firefighters between the Fire Stations.

15. The LLFD currently services areas in Long Lake, Orono, Medina, and Minnetonka Beach, pursuant to the Contract for Fire Protection (Long Lake, Orono, and Medina) and the Fire Service Contract (Minnetonka Beach).

16. The intention of this structure of sharing fire protection services between cities is to bring communities together under one fire service provider to provide high-quality fire protection and emergency services, while reducing redundancy in service and costs associated with creating separate fire departments for each city.

17. In April 2021, Orono served Long Lake with a Notice of Termination to terminate the Contract for Fire Protection, stating that the contract shall terminate on its expiration date of December 31, 2025. A copy of the Notice of Termination of the Contract for Fire Protection is attached hereto as **Exhibit D**.

18. Orono also served a Notice of Termination of Contract for Joint Ownership in connection with Fire Station 1, stating that the contract shall terminate on its expiration date of December 31, 2025. A copy of the Notice of Termination of Contract for Joint Ownership is attached hereto as **Exhibit E**.

19. Long Lake and Orono have engaged in discussions about the future of fire protection services between the cities. Orono proposed a full transfer of the LLFD from the control of Long Lake to the sole control of Orono. Orono then threatened that if Long Lake did not agree on the full transfer to the LLFD, Orono will “build [its] own Fire Department from scratch.” Long Lake refused to agree to transfer the ownership of the LLFD to Orono.

20. In September of 2022, Orono City Council passed a resolution to establish the Orono Fire Department.

21. Since then, Orono has taken actions with the combined effect of attempting to dismantle the LLFD and gain control of Fire Station 1 and Fire Station 2.

22. First, in October 2022 Orono purchased a ladder truck, which is the same vehicle that Long Lake officials were exploring the potential to buy with the approval of each Contracting City. However, Orono does not currently provide firefighting services.

23. In December 2022, Orono hired James Van Eyll, who was acting as the LLFD Chief prior to being hired by Orono as the Fire Chief of the Orono Fire Department.

24. In January and February 2023, representatives from Orono met with legislators to rally support for legislation that would give Orono control of the LLFD pension funds in 2024. It has become clear that Orono seeks control of pension funds because Orono intends to offer employment to LLFD firefighters.

25. Orono Fire Department Chief James Van Eyll has already approached LLFD firefighters and asked whether they were “with him,” indicating his plan to recruit Long Lake firefighters to join the Orono Fire Department.

26. Further, Orono Council Member Matt Johnson publicly stated in an Orono City Council meeting that Orono is prepared to take all Long Lake firefighters to help with the territory related to Fire Station 2.

27. Any recruitment of LLFD firefighters will directly hinder Long Lake’s ability to perform its contractual obligations, such as furnishing sufficient staff to each fire call to operate all vehicles and provide all necessary services.

28. Orono has also refused to approve future Capital Budgets or future shared equipment purchases under the current Contract for Fire Protection. The direct effect of Orono’s

refusal to approve capital expenditures is that important firefighting equipment will not be fixed or replaced because there is no approved budget.

29. This is particularly troublesome as one of the engines broke down during a training session. It would be disastrous for any important firefighting equipment to break down on an emergency call.

30. As described above, in April 2021, Orono served Long Lake with a Notice of Termination of the Contract for Joint Ownership in connection with Fire Station 1. The Notice stated that the contract shall terminate on its expiration date of December 31, 2025.

31. Orono also approved a Needs Assessment that expressly describes Orono's plan to take over the LLFD and hinder Long Lake's ability to provide fire protection services to its service area.

32. If Orono attempts to take control of either Fire Station 1 or Fire Station 2, it will directly impede Long Lake's ability to render the fire protection and emergency services it is obligated to provide pursuant to both the Contract for Fire Protection between Long Lake, Orono, and Medina, as well as the Fire Protection Contract between Long Lake and Minnetonka Beach.

33. In fact, Long Lake and Minnetonka Beach entered into the Fire Protection Contract in part because of the location of Fire Station 2. Any attempts by Orono to restrict Long Lake's access or use of Fire Station 2 could directly interfere with Long Lake's ability to perform under the contract, which could have life-threatening consequences.

34. On June 12, 2023, the Orono City Council adopted Resolution 7374, providing that Orono will assume responsibility for the Navarre Fire Service Area beginning on no later than July 1, 2024. Orono also committed to assuming responsibility for the operation and maintenance of

Fire Station 2 no later than July 1, 2024, despite Long Lake's obligation to maintain control of the Fire Stations and provide fire protections services up to January 1, 2026.

35. Orono's concerted efforts to disrupt Long Lake's ability to provide fire protection and emergency services provides an unquantifiable risk to public safety.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Executed on June 23, 2023 in Hennepin County, Minnesota.

By: /s/Charlie Miner
Charlie Miner

4893-0021-3355, v. 1

EXHIBIT A

CONTRACT FOR JOINT OWNERSHIP

THIS CONTRACT FOR JOINT OWNERSHIP entered into as of this _____ day of August, 2001, by and between the City of Long Lake (Long Lake), a municipal corporation, and the City of Orono (Orono), a municipal corporation.

RECITALS

WHEREAS, Long Lake and Orono are municipal corporations having certain statutory authority which includes, *inter alia*, the right to acquire, own, manage, sell, convey, lease, or otherwise dispose of real and personal property as required by the City's interests in accordance with the provisions of Minn. Stat. § 412.211, et seq.; and

WHEREAS, Long Lake has the authority to operate the Long Lake Fire Department for the mutual benefit of Long Lake, Orono, Medina, as well as other cities in accordance with Minn. Stat. § 438.01, et seq., as well as other applicable statutes; and

WHEREAS, Long Lake and Orono have on this date entered into a Settlement Agreement which requires the execution of this agreement; and

WHEREAS, Long Lake and Orono wish to provide for the joint ownership of the land and building upon which the New Long Lake Fire Station will be relocated and will form a Joint Fire Station Construction Committee to review and oversee the design and construction of the Replacement Fire Station.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, Long Lake and Orono agree as follows:

1. Purpose. The purpose of this Agreement is to provide for the joint ownership of the land and building upon which the New Long Lake Fire Station will be relocated at 340 Willow Drive, Orono, Minnesota; and to establish a Joint Fire Station Construction Committee to oversee the design and construction of the New Long Lake Fire Station.

2. Definitions. The following terms shall have the following meaning for purposes of this Agreement:

- a. "Replacement Land" shall mean approximately three acres of land located at 340 Willow Drive, Orono, Minnesota, upon which the Replacement Fire Station Building for the Long Lake Fire Department will be located.
- b. "Replacement Fire Station" shall mean the New Replacement Fire Station Building to be constructed at 340 Willow Drive, Orono, Minnesota. A new building will be constructed to which the Long Lake Fire Department will be relocated as soon as the building is completed.
- c. "New Fire Service Agreement and Contract for Services" (New Fire Service Agreement) shall mean an amendment of the Agreement and Contract for Fire Services as contemplated by this Agreement.
- d. "Good Cause" for termination of this agreement shall mean, but is not limited to, a pattern of inadequate service quality, including inadequate response to calls, inadequate training, and inadequate handling of calls; and/or a pattern of budget overruns.

3. Replacement Fire Station Land. The Replacement Fire Station Land shall be located at 340 Willow Drive, Orono, Minnesota. It is estimated that the Replacement Fire Station will require approximately three acres. The property shall be surveyed and a separate legal description prepared for the three acres upon which the replacement fire station shall be situated. The costs of surveying and obtaining the new legal description shall be paid out of the MnDOT settlement. The land will remain in Orono and Long Lake agrees to execute a covenant in recordable form to be prepared by Orono in which Long Lake agrees that it will not seek annexation of the land into the City of Long Lake. Orono shall take whatever reasonable action is necessary to apply for and obtain a property tax exemption for the replacement fire station land.

The Replacement Land shall be owned jointly by Long Lake and Orono. A deed shall be prepared identifying Long Lake and Orono as joint owners which shall be executed and recorded at the sole expense of Orono. Initially, the ownership interests shall be 60 percent to Orono, and 40 percent to Long Lake. The ownership interests shall change on a yearly basis, effective December 31, over the course of 20 years; so that at the end of 20 years the ownership interests shall be 50 percent Long Lake and 50 percent Orono. The interests of each shall change each year at the end of each year, commencing with December 31, 2001, at the rate of one-half of one percent to a total of 10 percent at the end of 20 years (December 31, 2020).

4. Replacement Fire Station. The Replacement Fire Station shall be located at 340 Willow Drive, Orono, Minnesota. It shall be identified as the Long Lake Fire Station

and shall consist of six bays and shall be between 19,100 and 20,100 square feet. The Fire Protection Agreements shall be amended to provide that Long Lake shall be responsible for the ongoing needs to operate and maintain the Replacement Fire Station. The costs associated with the operation and maintenance of the building, including utilities and insurance, shall be provided for in a new Agreement and Contract for Fire Protection, under the same cost-sharing formula as is currently in place.

Orono agrees that upon receipt of evidence that the MnDOT settlement check has been deposited in the Long Lake/Orono escrow account that it shall forthwith deposit an additional \$680,000.00 into the same escrow account. In lieu thereof, Orono may defer depositing its \$680,000.00 to a subsequent date which is on or before February 1, 2002, so long as it also deposits the additional interest that would have accrued on that amount had it been deposited on the same date as the MnDOT check. The \$680,000.00, plus the \$200,000 reimbursement for the cost of the replacement land, is intended to cover the shortfall between the MnDOT award and the current estimated costs of the replacement fire station building. The escrow account balance shall be used in its entirety to provide for the costs of the design and construction of the Replacement Fire Station for the Long Lake Fire Department. In the event that the entire amount of the escrow account balance is not used for the Replacement Fire Station, by reason of reduction in size of the proposed building, or for any other reason, the balance shall be owned 50 percent by Long Lake and 50 percent by Orono. Similarly, in the event that the cost of the Replacement Fire Station should exceed the MnDOT settlement, and the Orono contribution of \$680,000.00 plus the \$200,000.00

reimbursement for the cost of the Replacement Land, and all accrued interest, then Long Lake and Orono shall share equally in the cost of any additional shortfall for the cost to design and construct the Replacement Fire Station.

The Replacement Fire Station shall be owned jointly by Long Lake and Orono. Initially, the ownership interests shall be 60 percent to Long Lake, and 40 percent to Orono. The ownership interests shall change on a yearly basis, over the course of 20 years; so that at the end of 20 years the ownership interests shall be 50 percent Long Lake and 50 percent Orono. The interest shall change each year at the end of each calendar year, commencing with December 31, 2001 at the rate of one-half of one percent to a total of 10 percent at the end of 20 years (December 31, 2020).

5. Joint Fire Station Construction Committee. The cities of Long Lake and Orono shall appoint three representatives from each community to serve as representatives for the Joint Fire Station Construction Committee (Joint Committee). The Fire Chief of the Long Lake Fire Department will serve as a non-voting advisory member.

- a. A Joint Fire Station Construction Committee (Joint Committee) shall be established which shall consist of three representatives of Long Lake and three representatives of Orono who shall be appointed by the City Councils of the respective cities. The City administrators from each City shall serve as representatives on the Joint Committee. The Fire Chief of the Long Lake Fire Department shall serve as a non-voting advisory member of the Joint Fire Station Construction Committee, unless appointed as one of the 3 voting members by either City. A City of Medina representative shall serve as a non-voting member of the Joint Committee. The City Administrators of Orono and Long Lake shall jointly chair the Joint Committee. Meetings of the committee shall be called by the chair or by a member of the committee making a request

for a meeting to the chairs. The chairs shall schedule the meetings upon reasonable notice.

- b. The Joint Committee will operate by a majority vote of the six representatives. A majority shall require four affirmative votes.
- c. The Joint Committee will be responsible to review and oversee the design and construction of the Replacement Fire Station. The Joint Committee shall utilize as technical advisors for the design and construction of the replacement fire station, an architect and owner's agent or construction manager. The Joint Committee shall determine the design and construction process to be used. The selection of the design and construction consultants by the Joint Committee shall require solicitation of requests for proposals from consultants. The Joint Committee shall make its selection from the competitive proposals.

6. Operation and Maintenance of Land and Building. Long Lake shall have the overall responsibility to oversee the operation and maintenance of the land and building upon which the Long Lake Fire Station is to be relocated. However, expenditures will require approval through the budgeting process set forth in the Amended Fire Protection Agreements.

Liability and fire and casualty insurance shall be carried on the Replacement Land and Replacement Fire Station, naming both Orono and Long Lake as insureds, in an amount determined to be sufficient by both cities based on the recommendations of the insurance agents of both cities; the costs of which insurance are to be shared in the same way as other operating costs under the Fire Service Agreement.

7. Term. This Agreement shall be effective upon the date of execution, and shall extend through December 31, 2020. It shall automatically extend for successive five

(5) year extensions unless one of the cities covered by this agreement serves notice of termination not less than three (3) years before the original termination date or the termination date of any subsequent extension. This Agreement may not otherwise be terminated except for any of the following reasons:

- a. The express agreement of both cities to terminate the Agreement; or
- b. The expiration of the term of the Agreement provided that the three-year notice of termination preceding the expiration of the term is given; or
- c. An event that makes it unlawful for all or substantially all of the purpose of the Agreement, i.e. joint ownership of the land and building to be continued; or
- d. For good cause as defined above; or
- e. For material breach of this Agreement provided that the city seeking termination first provides the other city written notice and thirty (30) days to cure.

8. Restriction Upon Sale or Encumbrance of the Property or Interest. No city may sell, assign, transfer or encumber its interest in the Replacement Land or Replacement Fire Station or seek to condemn the interest of the other city by eminent domain without the express consent of the other city. Further, no sale, transfer, or encumbrance may occur except as expressly provided in this Agreement.

9. Rent and Depreciation. Because the Cities of Long Lake and Orono will jointly fund and own the Replacement Land and Replacement Fire Station, the Cities of Long Lake and Orono will not be responsible for paying rent or depreciation on the land or

building. Prior to initiating a rental or depreciation charge to the City of Medina, a twenty-four month notice will be provided.

10. Administration Fee. The Administration Fee shall be \$17,200 in 2002, as set forth in the proposed operating budget under the Agreement and Contract for Fire Protection. The Administration Fee includes Long Lake's administrative overhead expenses. The Administration Fee may be adjusted from year to year through the Annual Fire Services Operating Budget review and approval process. The cost-sharing formula for the payment of the Administration Fee shall remain unchanged.

11. Notices. Any notice, request, demand, or other communication permitted or required shall be delivered or mailed to the following:

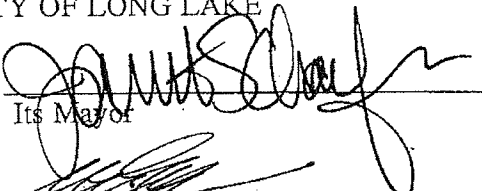
- a. Long Lake: City Administrator, with a copy to City Attorney
- b. Orono: City Administrator, with a copy to City Attorney

12. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

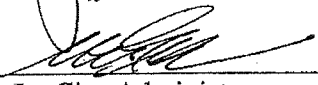
13. The parties agree to execute and deliver any and all instruments that may be necessary to carry out the intent and purpose of this Agreement, including without limitation, a recording of the major terms of this agreement on the deed for the Replacement Land.

14. This Agreement may only be amended upon a writing executed by each of the parties hereto.

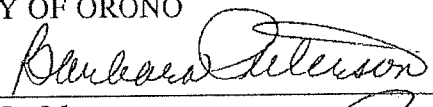
Dated:

CITY OF LONG LAKE
By 
Its Mayor

Dated:

By 
Its City Administrator

Dated:

CITY OF ORONO
By 
Its Mayor

Dated:

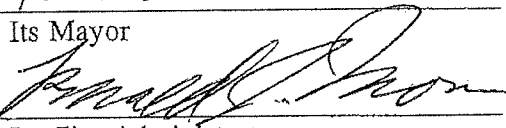
By 
Its City Administrator

EXHIBIT B

AGREEMENT AND CONTRACT FOR FIRE PROTECTION

THIS AGREEMENT AND CONTRACT made and entered into this 15 day of October, 2002 by and between the City of Long Lake a municipal corporation of the County of Hennepin and State of Minnesota (hereinafter referred to as Long Lake), the City of Orono, a municipal corporation of the County of Hennepin and State of Minnesota (hereinafter referred to as the Contracting City), and the City of Medina, a municipal corporation of the County of Hennepin and State of Minnesota (hereinafter referred to as the Contracting City), and witnesseth:

WHEREAS, the City of Long Lake has the facilities and equipment and is willing and able to provide fire protection service to the Contracting City, and

WHEREAS, the Contracting City does desire to have fire protection service furnished by the City of Long Lake Fire Department.

NOW, THEREFORE in consideration of the covenants herein contained the parties hereto agree as follows:

1. Definitions

- A. The term Contracting City or the Contracting Cities means any city which is a party to this Agreement or similar Agreement which by its terms is interrelated with this Agreement for the purposes of sharing the costs and the services of fire protection provided by the Long Lake Fire Department. The Contracting Cities are Orono, Medina and Long Lake.
- B. City Fire Service Area is the area within a Contracting City receiving fire protection from the Long Lake Fire Department. (City Fire Service areas are shown in Appendix A. attached.) The Total Fire Service Area is the sum of all City Fire Service Areas.

2. Services to be Rendered

During the term of this agreement Long Lake shall furnish all the fire fighting services, rescue/medical rescue services, and related fire protection services to the Contracting Cities for the Total Fire Service Area outlined in red on the attached map marked Exhibit A hereinafter referred to as "The Total Fire Service Area." All of said Total Fire Service Area is located within the corporate limits of the Contracting Cities.

3. Level of Service

Long Lake through its fire department shall endeavor to provide the services listed in paragraph 2 above, including but not limited to, protecting and saving life and property from destruction by fire in the City Fire Service Area of each Contracting City to the

same extent as it does within the City Fire Service Area of Long Lake. In the event of two fire calls received within the same time frame, the call first received shall have priority and the second call shall be answered as soon as possible. Long Lake will furnish sufficient staff to each call to safely, legally and effectively operate all necessary vehicles and equipment and provide all necessary services.

4. Command Responsibility

Subject to the terms of this agreement, the Fire Chief of Long Lake or the Chief's designee shall have the sole and exclusive right and responsibility to prescribe the manner and method of giving the alarm for fire within the Total Fire Service Area and to prescribe the manner and method of responding to calls and rendering the services contemplated. The said Fire Chief or designee shall immediately upon arriving at the scene of any alarm or fire emergency have the sole and exclusive responsibility and authority to direct and control any and all fire fighting and the emergency operations at such scene or scenes.

5. Volunteer Fire Fighters of the City of Long Lake

Personnel assigned to provide fire protection services in the Contracting Cities shall be volunteer firefighters of the City of Long Lake, which City shall assume all obligations with regard to Worker's Compensation, Firemen's Relief Association, withholding tax, insurance, etc. for such volunteer firefighters, if any.

The cost of such obligations shall be a part of the costs attributed to the operation of the Long Lake Fire Department and will be included in the Annual Fire Services Budget Package.

6. Nature of Long Lake Undertaking

In no event shall this agreement be construed to fix upon Long Lake any responsibility or liability to the Contracting Cities or to third parties which are greater or different in kind than the responsibilities and liabilities borne by the Contracting Cities if they were providing such services through their own fire departments.

7. Liability Insurance

Long Lake shall carry liability insurance in an amount no less than \$1,800,000.00 protecting itself and the other Contracting Cities against damage claims of its fire fighters for personal injury sustained while in service within the said limits of the Contracting Cities as hereto set forth. The amount of the insurance coverage shall be reviewed annually and if determined to be inadequate the amount of the coverage shall be adjusted accordingly. And further, Long Lake shall carry liability insurance in an amount no less than \$1,800,000.00 saving the contracting cities harmless so far as acts of the City of Long Lake, its fire department and its fire fighters are concerned. The City of Long Lake shall review the amount of the coverage annually and if determined to be inadequate, the

amount of the coverage shall be adjusted accordingly. The cost of such insurance shall be a part of the costs attributed to the operation of the Long Lake Fire Department and will be included in the Annual Operating Budget. Nothing in this contract shall be construed as waiving the statutory liability limits of any city, which is a party to this contract.

8. Long Lake Operational Responsibility

The City of Long Lake shall be responsible for managing the operation of the Long Lake Fire Department, and for managing the on-going operation and maintenance of the Long Lake fire station. This includes carrying builders risk insurance during construction of the new Fire Station and carrying hazard insurance on the Fire Station thereafter. Long Lake shall charge an annual Administrative Fee for these services. The Administrative Fee of \$17,200 for 2002 includes Long Lake's administrative overhead expenses. The Administrative Fees may be adjusted from year to year through the Annual Fire Services Operating Budget review and approval process. The costs related to the operation of the Fire Department, including the on-going operation and maintenance of the Fire Station, shall be included in the Annual Fire Services Operating Budget.

9. Budget Package

The Long Lake Fire Department's annual operating expenditures will be controlled through an Annual Fire Services Operating Budget. When the Annual Fire Services Operating Budget is approved, the expenditures may not exceed the level set in the Budget without the approval of all parties to the contract. If, during the 20-year term of the agreement, a Contracting City chooses not to approve a proposed Annual Fire Services Operating Budget, the Annual Fire Service Operating Budget increase will be limited to the average annual General Fund Budget increase of the Contracting Cities, until a new Annual Fire Services Operating Budget is approved by all Contracting Cities.

9.1 Definitions

- A. The Annual Fire Services Operating Budget refers to the calendar year operating budget of the Long Lake Fire Department. This budget will become the official Annual Fire Services Operating Budget upon ratification by the Contracting Cities. The Annual Fire Services Operating Budget incorporates all costs of departmental operations including, but not limited to, the costs of the on-going operation and maintenance of the fire station, Long Lake's Administrative Fee as defined in Section 8 of this Agreement, and annual contributions to the Long Lake Volunteer Fire Relief Association Retirement Fund.
- B. The Annual Fire Services Capital Budget refers to the calendar year capital budget of the Long Lake Fire Department. The Annual Fire Services Capital Budget includes Major Equipment items and major repairs/rehabilitation of the Fire Station.

9.2 Budget Process

By August 15 of each year during which this agreement remains in effect, the City of Long Lake will provide an Annual Fire Services Operating Budget and an Annual Fire Services Capital Budget covering the costs related to the provision of fire protection for the next year. The budgets presented to the Contracting cities must have been presented to the Joint Advisory Committee prior to August 1 for discussion and review. Although it is expected that the Annual Fire Services Operating and Capital Budgets which are provided to the Contracting Cities by the City of Long Lake will have the consensus support of the Joint Advisory Committee, that is not a requirement since each Contracting City has the opportunity for final ratification or rejection.

10. Term of this Agreement

This Agreement covers the period January 1, 2002 through December 31, 2020. A contract year covers the period January 1 through December 31 of a calendar year.

This Agreement will become effective upon ratification by the Contracting Cities. The term of this agreement will be extended for a period of five years unless this Agreement is terminated as provided in Section 20 of the Agreement.

11. Capital Expenditures

Capital expenditures include major equipment and major maintenance, repair, or rehabilitation to the fire station. Major equipment is defined as "rolling stock" or similar major equipment assets required for performing the fire department mission in the Fire Protection Area. To qualify as major equipment, such assets must have an initial purchase value of at least \$10,000. To qualify as major maintenance, repair, or rehabilitation, the cost must be at least \$10,000.

The City of Long Lake and the Long Lake Fire Department shall prepare a 15-year major equipment replacement plan, and a 15-year plan for major maintenance, repair, or rehabilitation items related to the fire station. These 15-year plans will be the basis for the preparation of an annual capital budget. Neither the approval nor lack of disapproval of the 15-year plans by the Contract Cities creates any obligation for final approval or funding of any specific capital expenditure. Final approval of capital expenditures occurs as part of the Annual Fire Services Capital Budget approval process.

Capital expenditures must be approved by a minimum of two cities and the combined funding shares of the two cities must be greater than 60%. Once this level of approval is obtained, all Contract Cities are obligated to fund their share of the expenditures.

The final approval of capital expenditures occurs as part of the Annual Fire Services Capital Budget approval process. When a city approves the Annual Fire Services Capital Budget, the city is also agreeing to pay its share of the cost of capital expenditures

included in the Annual Fire Services Capital Budget up to the budgeted amount, for the items budgeted.

Each Contracting City agrees to maintain its own fund for capital expenditures. When a capital expenditure is to be made, the following process for sharing the funding will be used:

- A. Long Lake will have the option of funding any percentage of the total, which is equal to or greater than the average of its last three City Budget Percentages including the current calendar year.
- B. Orono will have the option of funding the remaining amount. If Medina does not wish to fund the total of the remaining amount, it must fund at least the average of its last three City Budget Percentages including the current calendar year and may fund more if it chooses.
- C. Medina will fund the balance remaining to be funded after Long Lake and Orono have specified their funding amounts.

11.1. Disposition of Major Equipment Upon Termination

In the event that this Agreement is terminated as provided in section 20 of this Agreement, Long Lake will have the right to purchase each Contracting City's ownership share of each Major Equipment item for cash at the original amount funded by that city. In the event Long Lake does not exercise its right to acquire the major equipment items within sixty (60) days of termination, it will have waived its right to acquire full title to the equipment. If Long Lake waives its right to acquire full title to a particular Major Equipment item, the Contracting City with the largest ownership share of that item shall have the right to acquire full title to the item by paying the amount funded by each of the other Contracting Cities. If that City declines to acquire full title, the remaining Contracting City may acquire title on the same terms. In the event that no Contracting City wishes to acquire full title to a particular Major Equipment item, it shall be sold and the proceeds of the sale divided between the Contracting Cities pro-rata to their original funding. All Major Equipment items funded during the term of the contract, including extensions, will be covered by this terminating procedure.

The dissolution language applies to all equipment purchased, and fund balances accrued, since January 1 of 1993. This language is not intended to address any claim cities may have regarding equipment purchased prior to January 1, 1993.

No contracting city shall have the right to transfer or encumber any major equipment purchased after January 1, 1993.

12. Emergency Expenditures

When there is a need for emergency major equipment repair or emergency building repair, or other emergency need that will have a substantial negative impact on the operational capabilities and/or safety of the firefighters or of the fire station if not immediately addressed, the emergency expenditures may be authorized by the Long Lake City Administrator and the Long Lake Fire Chief, or their designees. If these costs exceed the approved budget amounts, the Long Lake City Administrator and/or the Fire Chief will, within thirty days of the expenditures, notify the Contracting Cities of the expenditure, including an explanation of the emergency need. Emergency expenditures will be shared according to the cost sharing formula set out in this contract. Any reimbursement of the emergency expenditures through insurance, emergency/disaster assistance funding, or other sources will be credited to the Contract Cities in the same manner as the costs were shared.

13. Annual Audit of Actual Costs

The Contracting City understands and agrees that it is impossible to project with complete accuracy the actual costs of labor and equipment as well as the service to be required by each Contracting City for the forthcoming contract year and thereby hereby agrees to a yearly audit to adjust the prior year's estimated cost of service as set forth above to the actual costs incurred by the City of Long Lake. On or before April 30th of each year the City of Long Lake will tabulate the actual cost of the fire department budget for the prior contract year and will submit to the Contracting Cities a summary of the actual costs. The actual costs set forth for the prior contract year may result in either a surplus or deficit with respect to that year's Annual Operating Budget. Any surplus shall be refunded to the contract cities in the same ratio as the cost allocation formula. Any deficit shall be funded by the contract cities in the same ratio as the cost allocation formula. It is expected that expenditures will remain within the Annual Operating Budget amounts and will only exceed such budget amounts in the case of an emergency expenditure as provided in Section 12 or when mutually agreed to by the Contracting Cities as provided in Section 14 of this Agreement.

14. Unforecasted Expenditures

Notwithstanding any of the above, the Contracting Cities shall have the right to be heard regarding any proposed expenditures which are not identified in the Annual Operating Budget and which exceed \$5,000. Notice of such proposed, non-budgeted expenditures shall be given in writing to the Contracting Cities prior to actual expenditures for such items and the Contracting cities shall thereafter have 21 days in which to approve or disapprove the same in writing and if there is no response which disapproves the expenditure, it is agreed that such proposed expenditures may be made and the cost thereof shall be included in the Annual Operating Budget as if ratified originally.

15. Contract Payments

The City Budget Share (See Section 16.2) of each Contracting City shall be paid in equal quarterly installments on January 1, April 1, July 1 and October 1 of the next contract year by the Contracting City to the City of Long Lake.

Long Lake agrees to provide each Contracting City with reasonably detailed information relating to the actual expenditures against the Annual Operating Budget at its request and on a quarterly basis and agrees to make its records available to the Contracting City for inspection for the purpose of determining the basis for the allocation of costs to fire protection.

16. Arbitration

If a Contracting City is aggrieved by the determination of the City of Long Lake as to the allocation of the actual costs of the prior year's service, the Contracting City may appeal said determination within 30 days after receipt of the City of Long Lake's audit. Said appeal shall be in writing and shall be addressed to the City of Long Lake asking for arbitration by a board of arbitration. The Board of Arbitration shall consist of three persons; one to be appointed by the City of Long Lake, one to be appointed by the appealing Contracting City, and the third to be appointed by the two so selected. The name of each arbitrator shall be submitted in writing to the other party. In the event that the two arbitrators so selected do not appoint the third arbitrator within 15 days after receipt of written notice of appointment of either of the first two arbitrator's, the Chief Judge of the District Court of Hennepin County shall have jurisdiction to appoint, upon application of either the Contracting Cities or the appealing Contracting City, the third arbitrator to the Board. The third arbitrator selected shall not be a resident of either Contracting City, and shall be a city manager or administrator. The arbitrator's expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be divided equally between the parties to the arbitration. Arbitration shall be conducted in accordance with the Uniform Arbitration act, Chapter 572 of the Minnesota Statutes, and any decision shall be rendered within 60 days of appointment of the third arbitrator. Said arbitration shall be binding on both parties.

17. Special Fire Funds

In order to facilitate the accounting and reporting of all fire funds associated with the Annual Operating Budget, a Fire Operating Fund will be maintained by the City of Long Lake. No Major Equipment Fund will be maintained by the City of Long Lake on behalf of the Contracting Cities as a part of this agreement since under the provisions of Section 11 each Contracting City agrees to maintain an Equipment Fund on its own.

18. Fire Services Joint Advisory Committee

Each Contracting City may appoint two volunteer members to a Fire Services Joint Advisory Committee and the name of such appointees shall be furnished to Long Lake. The Fire Services Joint Advisory Committee shall meet no less than four times per year to discuss and make recommendations regarding concerns or problems identified regarding the provision of fire service, and to periodically review budget updates. The Fire Services Joint Advisory Committee shall have the specific task of reviewing the Fire Department's operating and capital budget proposals for the next calendar year and arriving at a consensus Annual Fire Services Operating Budget and Annual Fire Services Capital Budget by August 15 of each calendar year.

19. Cost Sharing Formula

Each of the Contracting Cities receiving fire service from the Long Lake Fire Department shall pay a share of the costs of the Annual Fire Services Operating and Capital Budgets. The City's Budget Share will be based upon a formula, which takes into account the Market Value of the protected property and the fire department staff resources utilized to protect the property. The objective is to fairly allocate "insurance" type costs and "effort and variable" type costs. The Contracting Cities have agreed that 70% of the share allocation will be based upon Market Value and 30% upon fire department hours expended on calls to the City Fire Service Area.

19.1 Definitions:

- A. City Fire Service Area is the area within a Contracting City provided fire protection under this contract. The City Fire Service Area for each Contracting City is shown in Appendix A (attached).
- B. City Fire Service Area Market Value is the assessed market value of the property in the City Fire Service Area and is based upon the assessed market value for the year immediately preceding the budget year. The source of the assessed market value data shall be the Hennepin County Assessor's Office.
- C. Total Service Area Market Value is the sum of the City Fire Service Area Market Values of all contracting cities.
- D. City Market Percent is the percentage computed by dividing the City Fire Service Area Market Value by the Total Service Area Market Value and multiplying by 100.
- E. City Call Hours is the total number of fire fighter hours expended in responding to calls in the City Fire Service Area as recorded by The Long

Lake Fire Department during the preceding three year period measured from January 1 through December 31.

- F. Total Call Hours is the total number of fire fighter hours expended in responding to calls in all contracting cities during the previous three-year period measured from January 1 through December 31.
- G. Call Percent is the percentage computed by dividing the City Call Hours by the Total Call Hours and multiplying by 100.
- H. City Budget Percentage is the percentage derived from the sum of the City Market Percent multiplied by 0.7 and the City Call Percent multiplied by 0.3.

19.2 Budget Share Computation:

City Budget Share is the City Budget Percentage multiplied by the Annual Fire Services Operating Budget and the resulting product divided by 100.

19.3 Formulae for Calculations

- A. $\text{City Market Percent} = (B \times 100) / (C) \text{ percent}$

Where B = City Fire Service Area Market Value
C = Total Fire Service Area Market Value

- B. $\text{Call Percent} = (E \times 100) / (F) \text{ percent}$

Where E = City Call Hours
F = Total Call Hours

- C. $\text{City Budget Percentage} = [(\text{City Market Percent} \times 0.70) + (\text{Call Percent} \times 0.30)]$

- D. $\text{City Budget Share} = (\text{City Budget Percentage} / 100) \times (\text{Annual Operating Budget less Major Equipment expenditures})$

- E. The City Budget Share of capital expenditures is determined under the provision of Section 11.

20. Termination of this Agreement

This Agreement shall be terminable only as follows:

- 1. For "Good Cause" by any city that desires to terminate its participation in the Agreement provided that such termination is preceded by a minimum of 36-

months notice. "Good Cause" shall mean, but is not limited to, a pattern of inadequate service quality; including inadequate response to call, inadequate training, and inadequate handling of calls; and/or a pattern of budget overruns.

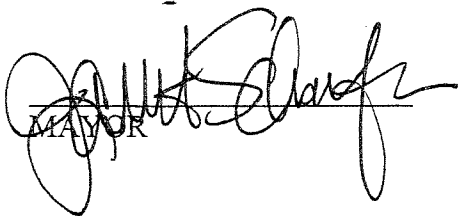
2. For breach of contract;
3. By mutual agreement of all cities covered by the agreement.
4. City of Medina may terminate its participation in this Agreement without cause, subject to providing a twenty-four month notice of termination.
5. This agreement may be renegotiated or terminated by the cities to enable participation in a fire district or similar organizational arrangement.

21. Provision to adjust City Fire Service Area

During the period of this agreement a Contracting City may request that its City Fire Service Area be reduced or increased in size. Such a request must be made prior to July 1 of the Contract Year to allow time for preparing the Annual Fire Services Budget for the succeeding Contract Year. In the event that a Contracting City proposes an increase to its City Fire Service Area, the City of Long Lake in consultation with the Long Lake Fire Department shall have the right to limit the increase to assure that coverage at the service level provided under this agreement can be achieved by the Fire Department. The service area shall not be increased to the extent that it requires the purchase of additional equipment unless all parties to the contract agree. In the event that a Contracting City wishes to decrease and/or alter the location of its City Fire Service Area it may do so by specifying those changes in writing by July 1 of the year prior to the contract year with respect to which such change is to be effective.

Approved by the Cities of Long Lake, Orono, and Medina on the date first written above.

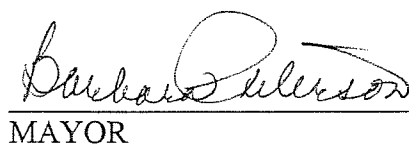
CITY OF LONG LAKE


MAYOR

ATTEST


CITY ADMINISTRATOR

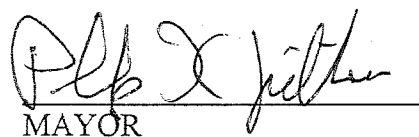
CITY OF ORONO


MAYOR

ATTEST


CITY ADMINISTRATOR

CITY OF MEDINA


MAYOR

ATTEST


CITY ADMINISTRATOR, acting

EXHIBIT C

ADDENDUM TO CONTRACT FOR FIRE PROTECTION

THIS CONTRACT is made and entered into this 12th day of December, 2011 between the **CITY OF LONG LAKE**, Hennepin County, Minnesota, and the **CITY OF ORONO**, Hennepin County, Minnesota (herein collectively the "Cities").

WHEREAS, the Cities previously entered into an "Agreement and Contract for Fire Protection" dated October 15, 2002 (hereinafter the "Fire Protection Agreement") attached hereto as Exhibit "A"; and

WHEREAS, the Cities also previously entered into a "Contract for Joint Ownership" of a new fire station located at 340 Willow Drive, Orono, Minnesota (hereinafter the "Long Lake Fire Station") attached hereto as Exhibit "B"; and

WHEREAS, the Contract for Joint Ownership provides that at the time of completion of construction of the Long Lake Fire Station that Long Lake will be responsible for operating and maintaining the fire station, and that the costs incurred by Long Lake for operating and maintaining the fire station building along with the costs associated with the operation of the services provided from the fire station would be reimbursed to Long Lake as part of an amended Fire Protection Agreement using the same cost-sharing formula as is currently in place; and

WHEREAS, The Long Lake Fire Station has been built and is operational; and

WHEREAS, The Long Lake Fire Department is now providing fire services to the Navarre area of Orono; and

WHEREAS, The Long Lake Fire Station #2 has now been built in Navarre, and is operational; and

WHEREAS, the Cities desire to add an addendum to the existing Fire Protection Agreement to reflect the provision of fire services to the Navarre area of Orono, and the operational costs related to Fire Station No.2.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth the Cities do hereby agree as follows:

1. FIRE STATION No. 2 OPERATIONS. Long Lake agrees to oversee all activities and operations at Fire Station No. 2 under the same terms and conditions as previously agreed to in the existing Fire Protection Agreement. All references in the existing Fire Protection Agreement to the Long Lake Fire Station shall be extended to include Fire Station No. 2.

2. COSTS AND EXPENSES. Long Lake will be responsible for operating and maintaining the fire station, and the costs incurred by Long Lake for operating and maintaining the fire station building along with the costs associated with the operation of the services

provided from the fire station will be reimbursed to Long Lake as part of an amended Fire Protection Agreement using the same cost-sharing formula as is currently in place.

3. **DEFINITIONS.** The Cities agree that "City Fire Service Areas" and the "Total Fire Services Areas" have changed to include the Navarre area of Orono, as indicated on the attached map.

4. **SERVICES TO BE RENDERED.** The Cities agree that Paragraph #2 of the existing Fire Protection Agreement is intended to include and cover the services and operations related to the Navarre area of Orono, and Fire Station No. 2.

5. **LONG LAKE OPERATIONAL RESPONSIBILITY.** The Cities agree that Paragraph #8 of the Existing Fire Protection Agreement includes responsibility for managing the operation of Fire Station No. 2.

6. **STATE FIRE AID ALLOCATION AGREEMENT (2% insurance).** The Fire State Aid allocation agreement has been amended to allocate the State Aid related to the Navarre area to the City of Long Lake.

APPROVED by the Cities of Long Lake and Orono on the date first above written.

CITY OF LONG LAKE

BY: 

Its Mayor

AND 

Its City Administrator

12/07/11

CITY OF ORONO

BY: 

Its Mayor

AND 

Its City Administrator

EXHIBIT D



CITY OF ORONO

Street Address:
2750 Kelley Parkway
Orono, MN 55356

Mailing Address:
P.O. Box 66
Crystal Bay, MN 55323

Telephone (952) 249-4600
Fax (952) 249-4616
www.ci.orono.mn.us

Long Lake City Administrator Scott Weske
City of Long Lake
450 Virginia Avenue
PO Box 606
Long Lake, MN 55356

Medina City Administrator Scott Johnson
2052 County Road 24
Medina, MN 55340

RE: NOTICE OF TERMINATION OF AGREEMENT AND CONTRACT FOR FIRE PROTECTION

Dear City Administrator Weske and City Administrator Johnson:

The City of Orono serves this **Notice of Termination** to terminate the Agreement and Contract for Fire Protection dated October 15, 2002, [hereinafter: Second Contract] pursuant to Sections 10 and 20. For your convenience, a copy of the Second Contract is attached. Sections 10 and 20 of the Second Contract provide the following:

Section 10:

10. Term of this Agreement

This Agreement covers the period January 1, 2002 through December 31, 2020. A contract year covers the period January 1 through December 31 of a calendar year.

This Agreement will become effective upon ratification by the Contracting Cities. The terms of this agreement will be extended for a period of five years unless this Agreement is terminated as provided in Section 20 of the Agreement.

Section 20:

20. Termination of this Agreement

This Agreement shall be terminable only as follows:

1. For "Good Cause" by any city that desires to terminate its participation in the Agreement provided that such termination is preceded by a minimum of a 36-months notice. "Good Cause" shall mean, but is not limited to, a pattern of inadequate service quality; including inadequate response to call, inadequate training, and inadequate handling of calls; and/or a pattern of budget overruns.
2. For breach of contract;
3. By mutual agreement of all cities cover by the agreement.
4. City of Medina may terminate its participation in this Agreement without case, subject to providing a twenty-four month notice of termination.
5. This agreement may be renegotiated or terminated by the cities to enable participation in a fire district or similar organizational arrangement.

Accordingly, the City of Orono hereby notifies the City of Long Lake and the City of Medina that the Second Contract shall terminate on its expiration date of December 31, 2025.

Please contact me with any questions or concerns.

Sincerely,



Adam Edwards
City Administrator

CC: Long Lake City Attorney:
John Thames
Carson, Clelland & Schreder
6300 Shingle Creek Parkway, Ste. 305
Brooklyn Center, MN 55430

Medina City Attorney:
Ronald Batty
Kennedy & Graven, Chartered
Fifth Street Towers
150 South Fifth Street
Suite 700
Minneapolis, MN 55402

Enc. Agreement and Contract for Fire Protection

EXHIBIT E



CITY OF ORONO

Street Address:
2750 Kelley Parkway
Orono, MN 55356

Mailing Address:
P.O. Box 66
Crystal Bay, MN 55323

Telephone (952) 249-4600
Fax (952) 249-4616
www.ci.orono.mn.us

April 13th, 2021

Long Lake City Administrator Scott Weske
City of Long Lake
450 Virginia Avenue
PO Box 606
Long Lake, MN 55356

RE: NOTICE OF TERMINATION OF CONTRACT FOR JOINT OWNERSHIP

Dear City Administrator Weske:

The City of Orono serves this **Notice of Termination** to terminate the Contract for Joint Ownership that commenced in August 2001 [hereinafter: First Contract] pursuant to Section 7. For your convenience, a copy of the First Contract is attached. Section 7 of the First Contract provides the following:

Section 7:

7. **Term.** This Agreement shall be effective upon the date of execution, and shall extend through December 31, 2020. It shall automatically extend for successive five (5) year extensions unless one of the cities covered by this agreement serves notice of termination not less than three (3) years before the original termination or the termination date of any subsequent extension. The Agreement may not otherwise be terminated except for any of the following reasons:

- a. The express agreement of both cities to terminate the Agreement; or
- b. The expiration of the term of the Agreement provided that the three-year notice of termination preceding the expiration of the term is given; or
- c. An event that makes it unlawful for all or substantially all of the purpose of the Agreement, i.e. joint ownership of the land and building to be continued; or
- d. For good cause as defined above; or
- e. For material breach of this Agreement provided that the city seeking the termination first provides the other city written notice and thirty (30) days to cure.

Pursuant to Section 11 of the First Contract, all notices must be “delivered or mailed” to Long Lake: City Administrator with a copy to City Attorney.

Accordingly, the City of Orono hereby notifies the City of Long Lake that the First Contract shall terminate on its expiration date of December 31, 2025.

Please contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Edwards", written in a cursive style.

Adam Edwards
City Administrator

CC: Long Lake City Attorney:
John Thames
Carson, Clelland & Schreder
6300 Shingle Creek Parkway, Ste. 305
Brooklyn Center, MN 55430

Enc. Contract for Joint Ownership